

Lawmaker opposes MHP's one-stop-an hour guideline

by Ellen Thompson

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ethompson@havredailynews.com

A new law meant to improve traffic safety and Montana Highway Patrol officers' vigilance could lead to racial profiling, said a local legislator who plans to fight it.

The law prohibits the Highway Patrol from setting quotas for the number of tickets issued and arrests made by patrol officers, but an amendment to the bill says managers can set objectives. Col. Paul Grimstad, who heads the patrol, said he's asking officers to make a stop per hour of patrol.

State Rep. Jonathan Windy Boy, D-Rocky Boy, said he opposed the bill in the Legislature and later approached a staff member in Gov. Brian Schweitzer's office to ask that the governor veto the bill. Windy Boy said he hadn't realized the bill had been signed into law until he heard that it took effect last Monday.

"I'm going to fight this to the end," he said.

Windy Boy said his problem lies with the stop an hour.

"This is just going to be giving the Highway Patrol another reason to stop my people," said Windy Boy, who is Native American.

Windy Boy plans to propose that the law be overturned, either in a special session of the Legislature this year, which is planned primarily to review a new education funding formula, or otherwise in the next legislative session.

Grimstad said the one-stop requirement is better termed a "guideline." Law enforcement officers need probable cause to make a stop, he added.

"It's not a rule," he said. "If nothing else is going on, I'm asking them to obtain that number if they can."

Windy Boy is also a member of the Rocky Boy tribal council and said that about a year ago the council had approached the Montana Attorney General's Office about perceived racial profiling by Highway Patrol officers. Council and community members had frequently observed patrol cars parked outside the reservation's border in Box Elder and at the turnoff to Rocky Boy Agency on U.S. Highway 87 - a practice Windy Boy said the Highway Patrol has since stopped. It's an image Windy Boy says has stuck with him and that he does not want to see happen again. Residents at Fort Belknap Indian Reservation have approached him with similar accounts, he said.

The Highway Patrol is operating with a historically low number of officers on the road, fewer than there were 30 years ago, Grimstad said. He estimated the number of officers at about 170 statewide. The guideline ensures that the officers who are on the road do their jobs, he added.

The requirement is limited to patrol time, so an officer spending hours at the scene of an accident would not be required to make additional stops to make up for that time, Grimstad said.

Rep. Jill Cohenour, D-East Helena, who also opposes the one-stop-an-hour requirement, said she thinks the bill passed because legislators were worried that not passing the bill would jeopardize a separate Highway Patrol pay raise bill.

The Legislature also approved that bill this year. Grimstad said the patrol had vacancies that it was not filling and agreed that the bills were related "in a roundabout way."

"The Legislature was very kind to the Highway Patrol this session, paying them more and allowing them to increase their time out there," he said.

Grimstad added that the public wants to see officers actively patrolling.

Cohenour said the result may be bad for Native Americans. She said she has heard that more citations are made near Indian reservations than elsewhere in the state and called the amendment a de facto quota.

"The law was a good law until that amendment got stuck on ... that essentially made it legal to have quotas and we've never had that before," she said. "We're going down a road that's very negative."

Grimstad said he did not know of any studies that showed more citations near reservations and he doubted that was so.

A longtime officer with the Highway Patrol in Wolf Creek, Frank Nowakowski, said the guideline probably won't be abused.

"This is a really sticky thing. Is this is a quota? No, it's not a quota, it's a goal for enforcement for the officers. It's not something that will be abused unless an officer allows himself to abuse this," he said.

Grimstad said he didn't think the one-stop-an-hour requirement would lead to racial profiling and he said he's instituted ways to track profiling if it's alleged. He asks officers to guess a person's race or nationality after making a stop, without asking. That information does not appear on the ticket. The information is kept internally so a particular officer's stops can be tracked or reviewed if somebody claims unfair treatment.

"If they have a reason to stop somebody, it better be a good reason and it better hold up in court," Grimstad said.